



MITCHELL E. DANIELS, JR., *Governor*

JAMAL L. SMITH, *Executive Director*

ICRC No.: EMra11080486

[REDACTED],  
Complainant,

vs.

COMFORT SUITES,  
Respondent.

### **NOTICE OF FINDING**

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b)

On August 6, 2011, [REDACTED] ("Complainant") filed a complaint with the Commission against Comfort Suites ("Respondent") alleging discrimination on the basis of race, in violation of the Indiana Civil Rights Law (IC 22-9, et seq) [REDACTED]. Accordingly, the Commission has jurisdiction over the parties and the subject matter of this complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was terminated due to her race. In order to prevail on such a claim, Complainant must show that: (1) she is a member of a protected class; (2) she suffered an adverse employment action; (3) she was meeting Respondent's legitimate business expectations; and (4) employees of a different race were treated more favorably under similar circumstances.

Complainant clearly is a member of a protected class by virtue of her race and it is undisputed that she suffered an adverse action when Respondent terminated her employment. The only facts at issue are whether she was meeting her employer's legitimate business expectations or, if not, whether employees of a different race were treated more favorably under similar circumstances.

Complainant claims she was denied earned vacation time and eventually terminated for refusing to come in to work on her day off. Respondent agrees that Complainant was terminated for, among other things, refusing to come in to work on her day off—July 4, 2011. Respondent claims Complainant had received many disciplinary actions, but only one write-up could be produced bearing Complainant's signature. The evidence indicates that Respondent has treated employees of a different race more favorably under similar circumstances. A witness attests to the fact that she had also refused to work on her day off, but received no disciplinary action. This witness also claims to have received vacation pay even though she works less than 30 hours per week.



Respondent initially told Complainant that employees must work at least 30 hours to receive vacation, but later changed this to 25-30 hours per week. Furthermore, this witness states she heard Respondent say to Complainant that he couldn't work with "people of her kind." There is sufficient evidence to establish *probable cause* to believe Respondent may have violated the Indiana Civil Rights Law as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. IC 22-9-1-18, 910 IAC 1-3-5 The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

June 12, 2012  
Date

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Joshua S. Brewster, Esq.,  
Deputy Director  
Indiana Civil Rights Commission